Supreme Court, U.S.
FILED

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IN THE

SUPREME COURT OF THE UNITED STATES

JEROME J. NOWAK - PETITIONER

V

TRANSPORTATION JOINT AGREEMENT,
SCHOOL DISTRICT 47,
SCHOOL DISTRICT 155
RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO
U S COURT OF APPEALS, 7th CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Jerome J Nowak
886 Aberdeen
Crystal Lake, Illinois 60014
(815) 477-4705

QUESTIONS PRESENTED

1. Does the First Amendment extend into the classroom? Does the Petitioner Nowak not have constitutional protection to ask questions?

2. Did the lower courts err in granting summary judgment to dismiss a case when the defendants business reason is subjective and petty at best?

3. Shall a pro se plaintiff be granted counsel in a case that becomes complex to prosecute as in the shifting burden model of discrimination?

4. Is it in the nation's best interest to uphold the age and other discrimination laws in the face of an ever aging population and an ever changing economy that displaces individuals from traditional jobs and places them in new situations dominated by other classes and groups?

LIST OF PARTIES

All the parties appear in the caption of the case on the cover page. The petitioner is an individual and no corporate disclosure statement is provided.

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the United States Court of Appeals appears at Appendix app 1. of this petition and is not known to be published.

JURISDICTION

The United States Court of Appeals decided this case on November 2, 2007. No petition for rehearing was timely filed in this case. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. First Amendment to the United States Constitution, Freedom of Speech.

2. Age Discrimination in Employment Act
29 U.S.C. 621 – 634

3. Title VII of the Civil Rights Act of 1964
42 U.S.C. 2000e – 2000e-17

STATEMENT OF THE CASE

The Plaintiff, Mr. Nowak age 45, was an experienced school bus driver when he was hired by the Defendant, TJA. Nowak attended only three hours or so of classroom training in July 2002. The Defendants entire training and office staff at the time was female. Brenda Kroll, one of the Defendant's trainers, became unreasonably angry with Nowak. She accused him of a laundry list of driving offenses even though he had not yet driven for TJA. These alleged offenses included refusing and failing to remove his hands from the steering wheel while driving, and refusing and failing to change all tires on the bus even if only one required replacement. She went so far as to state Nowak was "too old to be retrained". The next day the Kathy Smith the route coordinator fired Nowak. The other trainees a women and younger man were allowed to finish training which lasted a minimum of 2 weeks.

The Plaintiff then filed a complaint with the Illinois Department of Human Rights (IDHR), Charge number 2003CA2552. A fact finding conference was help by the Department in November of 2003. In attendance were Erdman, Smith, Prestley, Kroll, the Plaintiff, and the Department's investigator. The Defendants claimed that Nowak failed training. This is a change from the explanation that Smith and Erdmann offered in 2002. The

Defendants have never produced the results of any standardized written or driving test that would indicate a score that would prohibit him from driving. In fact no standardized tests were administered and furthermore the Plaintiff already processed a valid commercial drivers license with proper endorsements.

Additionally the Defendants' trainer, Kroll, accused the Plaintiff Mr. Nowak of intentionally using bus heaters to punish children. Children were not present during training and the Defendants have not supplied the names of any children who
were abused by the use of bus heaters. It is a fact that the Defendants, as school employees, are mandated reporters of child abuse. (325 ILCS 5/4) It is a criminal offense of disorderly conduct to make a false report of child abuse to an agency. (720 ILCS 5/26-1 (11))

The Illinois Department of Human Rights dismissed the case for lack of substantial evidence in order to proceed. The Plaintiff requested the EEOC review the case. The EEOC in short order agreed with IDHR and issued a right to sue letter. The Plaintiff also filed an appeal, pro se, from the IDHR in the Illinois Court of Appeals. This Court upheld the IDHR order to dismiss.

The Plaintiff then filed a case, pro se, with U. S. District Court, Illinois Northern District, Western Division, 3:05 C 50161. That case proceeded with some discovery. The Defendants filed a motion for summary judgment. The court ruled in favor of the Defendants. The Plaintiff then filed an appeal, pro se, (No. 07-1605) with the U. S. Court of Appeals. The US Court of Appeals 7th decided to affirm the district court on November 2, 2007. A mandate was issued on November 26, 2007.

REASONS FOR GRANTING THE PETITION

1.

The first Amendment surely provides the Petitioner Mr. Nowak the right to question statements made by the trainer Brenda Kroll. What better place to ask a question than in the classroom as opposed to behind the wheel on the highway. Surely the Court would agree the only foolish question is the one not asked. Any questions Nowak may have asked were in earnest to command accuracy and clarity of the subject. The other trainees were allowed to ask questions without being punished or fired. Nowak's only offense is that he dared question Brenda Kroll.

2.

The lower courts erred in granting summary judgment on conjecture. . The principal deficiency that the Court of Appeals finds is that Nowak's "style .... signaled the possibility that he would take it upon himself to disregard Illinois or TJA safety mandates ...." (app4 US Appeal Order). According to this Nowak was fired for what he may do sometime in the future, maybe. Every driver who turns the ignition key is a potential accident. The other trainees were not fired or disciplined for anything that they said.

Future acts not yet committed are not facts. As to whether Nowak was rude or disruptive is a matter of subjective opinion and also not a fact. Furthermore

rudeness and safety in any case do not have a direct connection. The lower courts analysis is flawed.

Also the lower courts completely ignore any mention of Kroll accusing Nowak of using bus heaters to punish school children. This is a baseless account on the part of Kroll. It demonstrates that she is willing to say anything in order to have Nowak fired and keep him fired, even lie. Much of what she has sworn to is misquoted and outright lies. There is no documentation in the record from the day in question to support any of her stories. Even the other women, Smith and Prestley, who have sworn statements against Nowak do not agree or support Kroll's stories.

Nowak cannot imagine what he could possibly have done to Kroll in such a short time that she would hate his so much. These stories by Kroll and Smith and adopted by TJA are no more than pretext. Reeves v Sanderson Plumbing Products Inc. 50 US 133 (2000) states " a Plaintiff's prima facie case, combined with sufficient evidence to find that the employer's justification is false, may permit the trier of fact to conclude that the employer unlawfully discriminated." Gordon v United Airlines, Inc. 246 F.3d 878.893(7th cir. 2001) further supports Nowak in this assertion. Here the Circuit reversed summary judgment to the employer noting that "our faithful adherence to the Supreme Court's holding in Reeves will tolerate no other conclusion.

TJA really does not have a legitimate business necessity to have fired Nowak. McDonnell Douglas v Green 411 US 792 (1973). The burden of proof never shifts back to the Plaintiff in this case. Even if he behaved in the manner that TJA would have the courts believe they

still have not shown in the record that they have used any of these issues to fire or even discipline any similarly situated women or younger men. TJA has created a special set of undocumented requirements that they have used against a 45 year old man only. Ladies and gentleman this is textbook discrimination.

Carey v Mt. Desert Island Hospital No. 97-1661 (1st Cir. 1998) supports Nowak's Title VII claim. Here women were given progressive discipline over time. A male vice president was fired by a female C E O. The jury viewed the defendant's assertion of business necessity in this case as only a suggestion.

3.

The Petitioner, Mr. Nowak finds it very dehumanizing that he would have to process this case all the way to the U S Supreme Court without representation. Every attorney that he approached were of the consensus that the 7th Circuit does not enforce the anti discrimination laws. This is such an impossible task for a pro se litigant to succeed in doing. Indeed Nowak has found first hand that the lower courts accept whatever the Defendants assert as automatic fact and anything he presents as immaterial, irrelevant or simply ignored.

Mr. Nowak motioned for appointment of counsel and was turned down because his spouse has income. The Defendant's use tax money, to have a four name law firm make a simple matter into a federal case. Basically this case is a simply parking ticket. The Defendant's should be adult enough to admit their deficiency and pay the fine. They made no effort to collect any facts outside of what their female trainers had told them. They have not shown

that Nowak has violated any law rule or regulation with respect to school bus diving. Had the court appointed counsel Nowak would have been better able to advance his position in the proper form.

4.

Perhaps of most interest to the Court and the country is the age of our population. There are 80 million baby boomers over the age of forty. Not all will require protection against age discrimination, but we need to know that the courts will enforce the ADEA. The economy is a dime balancing on its edge. It does not take mush to tip it into recession. The housing and credit markets are near crisis. A vast majority of people over 40 depend on their paychecks to participate in American life.

The courts cannot continue to funnel decisions in favor of the defendants for petty or obviously questionable reasons. Older Americans need to know the courts will be there for them. These laws are to govern the employers and protect the individuals. 45 year old plaintiffs are mature enough to know when there rights have been violated. The courts discretion needs to err on the side of enforcing the protections, not allowing the employer a get out of jail free card. If employers knew the statutes had teeth there would be less need to bring cases to court.

5.

In summary the statutes provide for equal opportunity in employment and training between the age and gender groups. There is enough difference between the

facts of the Defendant's TJA and the Plaintiff Nowak to require a jury to decide who is telling the truth. There is sufficient case law to require this case move to trial. It is in the nation's best interests to enforce these laws and keep people working. What is missing is the courts have the will to move this to trial.

TJA and employers in general are subject to little accountability. They become abusive in ever increasing degrees, much like an addict. The courts have now taken on the role of enabler. They allow the addict to continue unchecked. The Defendants need to admit their abuse and reconcile their trespasses in order for the healing to begin. The courts need to be party to the healing not the addiction.

In this case the simply fact is the Defendant's Brenda Kroll had gotten her shorts in a bunch about something. We can only guess. It may be she hates here father. It may be she is jealous that Ronald Erdman is her boss. She may be a man hater in general. She may have a brain tumor. She enlisted the help of her bus diving sisters to dupe Ron Erdmann into taking the credit for firing Nowak This apparently was not a difficult task and only illustrates the severe female gender bias this employer has.

The Plaintiff – Petitioner, Nowak, and the honest hard working people of this nation do not need the United States Supreme Court to affirm summary judgment in favor of an abusive and self serving employer. The lower courts have already done that. What Nowak seeks here is to have the case go before a jury. They will know what to do.

CONCLUSION

WHEREFORE: for the above stated reasons and any the Court may deem appropriate the Petitioner prays that the Petition for Writ of Certiorari should be granted.

Respectfully submitted,

Jerome J. Nowak

Date: 3/3/08

App. 1

NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with Fed. R. App. P. 32.1 United

States Court of Appeals
For the Seventh Circuit, Chicago, Illinois 60604
Before
Hon. Richard A Posner
Hon. Diane P. Wood
Hon. Dianne S. Sykes

No. 07 - 1605

Jerome J. Nowak Plaintiff-Appellant Northern v.	Appeal from the Unite States District Court for the District of Illinois, Western Division
Transportation Joint Agreement of Community Consolidated School District No. 47 and Community District No. 155 Defendant- Appellee	No. 05 C 50151 Philip G. Reinhard

ORDER

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*After examination of the briefs and the record, we have concluded that oral argument is unnecessary.

Transportation Joint Association ("TJA"), a

cooperative formed by two northern Illinois school districts to bus their students, hired Jerome Nowak as a driver on a probationary basis. He reported for training at the end of July 2002 but was terminated on his second day. In this action under the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, and Title VII of the Civil Rights Acts of 1964, 42 U.S.C. §§ 2000e to 2000e.17, Nowak claims that TJA fired him on account of his age and gender. The district court granted summary judgment for TJA, and we affirm.

Nowak was 45 when he accepted a job with TJA. At the time he had three years' experience driving a bus for a different school district, and twice before he had declined offers of employment from the defendant. Nowak started his training with two other probationary drivers, 52 year old Sheila Cudworth and 31 year old Daniel Lahl. At summary judgment, TJA submitted evidence that several times during the first day of training Nowak questioned the correctness of instructions given the trainees by TJA employees Brenda Kroll and Penny Prestley. The other trainees did not challenge the instructors' directions. Kroll and Prestley ended the session by privately admonishing Nowak for being disruptive, and afterward they reported to their supervisor, Kathy Smith, that Nowak had been belligerent and argumentative, and that his comments during the training session left them concerned that he would not follow Illinois law or TJA's safety policies. According to the defendant's evidence, Smith immediately passed on these concerns to Dr. Ronald Erdman, the executive director of TJA, who spoke with Kroll and Prestley and then decided that Nowak should be fired. Smith communicated that decision to Nowak the next day.

TJA notified Nowak when it moved for summary judgment that his response must comply with the district court's Local Rule 56.1. That rule requires, among other things, that the opponent of a motion for summary judgment submit a supporting memorandum of law. See N.D. Ill. Loc. R. 56.1(b)(2). Nowak did not provide the court with a memorandum setting out his legal arguments. And in his response to TJA's statement of uncontested facts, he did not deny that he contradicted his trainers or that they reported to Smith and Erdman that he was combative during the training session.

In granting summary judgment for TJA, the district court observed that the absence of a memorandum of law from Nowak had hampered the court's ability to understand his response to TJA's statement of uncontested facts. The omission of the required memorandum, the court explained, was reason enough to grant TJA's motion. The court, added, however, that even aside from the rule violation Nowak lacked sufficient evidence to warrant a trial on his claims of age and gender discrimination.

On appeal Nowak says nothing about Local Rule 56.1, but the district court's application of that rule, which we review only for abuse of discretion. *Greer v. Bd. of Educ.*, 267 F.3d 723, 727 (7th Cir. 2001), is reason enough to sustain the judgment. A district court may insist upon strict adherence to its local rules even from a *pro se* litigant, *McNeil v. United States*, 508 U.S. 106, 113 (1993); *Ammons v. Aramark Uniform Servs., Inc.*, 368 F.3d 809, 817 (7th Cir. 2004), and if a party opposing summary judgment fails to comply with its obligations under Local Rule 56.1, the court may in its discretion deem the motion unopposed, see *Greer*, 267 F.3d at 727. Local Rule 56.1(b)(2) requires the opponent of a motion for summary

judgment to file a supporting memorandum of law. Nowak did not comply, and on that basis alone the district court was within its authority to grant summary judgment to TJA.

In any event, the district court analyzed the parties' evidence and concluded that TJA was entitled to summary judgment. We agree. Nowak argues here that he was proceeding under the indirect method of proof and that his evidence established a prima facie case of age and gender discrimination. See *Ptasznik v. St. Joseph Hosp.*, 464 F.3d 691, 695 (7th Cir. 2006); *Gore v. Ind. Univ.*, 416 F.3d 590, 592 (7th Cir. 2005). But there is no evidence to dispute that TJA fired Nowak because the employees tasked with training him concluded that his confrontational style was rude and disruptive, and signaled the possibility that he would take it upon himself to disregard Illinois or TJA safety mandates that he deemed ill-advised. Whether we view this evidence through the lens of the prima facie case or in terms of pretext, it is clear that Nowak was not performing up to TJA's legitimate expectations, and that he presented nothing to refute their contention that he was fired for that reason and no other. See *Hague v. Thompson Distrib. Co.*, 436 F.3d 816, 823 (7th Cir. 2006); Coco *v. Elmwood Care Inc.*, 128 F.3d 1177, 1179 (7th Cir. 1997).

Nowak spends much of his brief arguing that his criticisms of Kroll and Prestley's directives were valid, and that TJA should have listened to him instead of firing him. But insisting on the invalidity of the TJA's safety curriculum simply reinforces the sincerity of TJA's stated reason for his termination. In any event, the argument misses the mark. The relevant inquiry is whether there is evidence from which a finder of fact reasonably could

conclude that the decision to end Nowak's employment was unlawful; whether it was wise or even fair is not for the courts to decide. See *Ptasznik*, 464 F.3d at 697.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS

Name of Assigned Judge or Magistrate Judge	Philip G. Reinhard	Sitting Judge if Other than Assigned Judge	
CASE	05 C 50161	DATE	2/9/20
CASE TITLE	Jerome J. Nowak vs. Transportation Joint Agreement School District 47, and School District 155		

DOCKET ENTRY TEXT:

For the reasons stated below, defendant's motion for summary judgment is granted. This case is hereby dismissed in its entirety with prejudice.

STATEMENT

Plaintiff, Jerome J. Nowak, pro se brings this action against defendant, Transportation Joint Agreement School Dist. 47 and School Dist. 155. Plaintiff was terminated after his first day of employment (a training course) by defendant. He claims the firing was because of his age in violation of the Age

Discrimination in Employment Act, 29 U.S.C. § 621 et seq. and sex in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. Federal question jurisdiction exists for this case. 28 U.S.C. § 1331. .Defendant moves for summary judgment.

Despite having been served with the "Notice to Pro Se Litigant Opposing Summary Judgment" plaintiff has not complied with LR 56.1. He has not filed a memorandum of law supporting his opposition to summary judgment which makes it difficult to make sense of his LR 56.1 (b) (3) responses to defendant's statement of facts and his statement of additional facts.

In Greer v. Bd. of Educ. of the City of Chicago, 267 F.3d 723, 727 (7th Cir. 2001), the court stated the district court would have been within its discretion to grant the defendant's motion for summary judgment based strictly on the pro se plaintiff's failure to comply with the local summary judgment rule. In Greer the plaintiff provided no meaningful response to defendant's statement of facts, filed a statement of additional facts with no citation to any evidentiary support in the record and filed a brief described as a "jumbled mass of information (none of which was referenced in his Rule 56.1 statement)." Here, plaintiff has not offered legal arguments as to why summary judgment should be denied leaving the court to try to discern these arguments from the statements of fact. This failure to comply with LR 56.1 is sufficient reason to grant summary judgment for defendant.

Even looking at the facts in the record, it is clear plaintiff has no claim. Plaintiff has no evidence, direct or circumstantial, of a discriminatory motive in his termination so he cannot proceed under the direct method for proving either age or sex discrimination. See Ptasznik v. St. Joseph Hosp., 464 F.3d 691, 695 (7th Cir. 2006). To

establish a prima facie case under the indirect method for age discrimination plaintiff must show 1) he is in a protected class, 2) he was performing his job in accord with his employer's legitimate expectations. 3) he was subjected to an adverse employment action, and 4) similarly situated employees outside the protected class were treated more favorably. Id. at 696. The test is the same for a sex discrimination claim, except that when it is brought by a man the first prong is different. In the case of a man the plaintiff must show background circumstances that demonstrate a particular employer has reason to discriminate against men or evidence there is something "'fishy" about the facts. Gore v. Indiana University. 416 F.3d 590, 592 (7th Cir. 2005). If the prima facie case is met, then defendant must offer a legitimate nondiscriminatory reason for terminating plaintiff. Ptasznik at 696. When defendant has done so, the burden shifts back to plaintiff to prove the stated reason was a pretext.

Here, the facts show plaintiff was hired by defendant to be a bus driver. Defendant required its bus drivers to undergo training. On the first day of training, plaintiff questioned several things about the propriety of the course and was perceived by the trainers to be disruptive. The court gathers from the record that plaintiff did not think he was disruptive but was simply asking questions about the wisdom of some of the things being taught. Cutting to the pretext analysis, plaintiff has offered no evidence that defendants articulated reason for dismissing him was a lie. The record clearly shows defendants employees involved in the training thought plaintiff was a problem. Every question plaintiff asked may have been valid, but it is not the court's "role

to determine the competency of or interfere in employment decisions simply where we believe an employer has made a poor choice. Federal courts have authority to correct an adverse employment action only where the employer's decision is unlawful, not merely when the adverse action is unwise or unfair." Id. at 697. Plaintiff has simply failed to show any evidence that the reason given for his termination was *a* pretext.

For the foregoing reasons, defendant's motion for summary judgment is granted. This case is dismissed in its entirety with prejudice.

App. 10

Jerome Nowak
P.O. Box 1420
Crystal Lake, Illinois 60014

November 13, 2003

Illinois Department of
Human Rights
100 W. Randolph
Chicago, Illinois

Attn: Victoria Brown

RE: Fact finding conference November 13th, 2003.
Claim #2003CA2552, respondent Transportation Joint Agreement

As of this date the complainant has not received an answer to the charge.

The Complainant would like to set forth the following facts at this time. He had owned an intrastate delivery service and held a commercial type drivers license from 1984 to 1990. In February of 1999 he applied to work as a school bus driver at both CCSD 15 in Palatine, 111. and TJA (districts 47 & 155) in his home town of Crystal Lake 111 The wages and benefits were better in Palatine so he started working for them. This required once again that he

obtain a commercial drivers license He worked at district 15 for 3 1/2 years. Several times during those years the complainant checked to see the level of wages at TJA in Crystal Lake The complainant even had a long interview with Rich Hansen who showed off the soon to open addition to the facility. Hansen did not seem to have a problem with his answers at the interview and invited him to work for TJA when ready to make the change.

During the summer of 2002 the complainant applied at TJA. A informational meeting was held in July. Mr. Hansen was out on sick leave and Kathy Smith conducted the meeting. There were as many as 10 applicants present that were accepted for training and employment The group broke up and set training times with individual trainers. The Complainant met Brenda Kroll who said she had worked at Palatine. She said that TJA is much more supportive of their drivers.

On July 30th 2002 the Complainant arrived at TJA and happened to meet Kroll on her way in. Kroll said they would start training right away. Inside there were two trainees, a man and woman, from there appearance seemed to be younger than 40. These two are potential witnesses.

During the training Kroll brought up several transportation issues that are contrary to the complainant's prior experience. One issue was the use of recapped tires. Mr. Nowak understands that it is prohibited to use recaps on the front steering axle of a bus. Recaps may be used on the rear drive and trailer axles. Kroll stated that if one recap was used that all the tires would need to be changed to recaps. Nowak told Kroll that he never heard this

explained in such a manner. Kroll left to ask a mechanic if recaps could be mixed on the rear axle. She returned with a puzzled look and explained that the mechanic agreed that recaps could be mixed, then added that "but no self respecting mechanic would".

The complainant does not understand this answer. Either the use of recaps is allowed or it is not. After he was fired by Smith Mr. Nowak called Crystal Lake Tire Inc. who services trucks and busses. He was informed that Crystal Lake Tire does mix recaps on the rear axles with no problem. Nowak also contacted J. Dlisa at Elgin Community College's commercial driving program. He also agreed that re-caps could be mixed.

Other topics that were covered included pre-trip inspections. One of the trainees asked if the buses were front wheel drive. Kroll again left to ask a mechanic. She returned with the answer that all the buses were rear wheel drive. This action concerned the complainant. It did not seem right that the person who was going to instruct in the proper inspection of the chassis and underside of the vehicle was not familiar with it

The discussion continued until a motorcycle parked just outside the window of the training room. Kroll stop the training briefly and talked with another trainer (Penny?) who was present. The other trainer wanted to know if Kroll drove motorcycles. She answered "No. I only ride "bitch". This is not the level of professionalism, or better stated lack thereof that the complainant would expect from the trainers at his new employer.

The group later went on a demonstration ride with

Kroll driving. Bus #180 was used. It was equipped with air brakes and bar type air pressure gauge. She made a pre-trip inspection. This did not include going under the bus and moving the slack adjusters as described in the CDL study guide. The mirror grid was not used for inspection either. While on this trip Kroll displayed at least two disturbing practices.

She was explaining how to check if the brakes pulled. After moving the bus forward at about 5 to 10 miles per hour she removed both hands from the steering wheel, placed them over her head in a "V" and sharply applied the brakes. Mr. Nowak would hope everybody appreciates there is no driving situation when removing both hands is acceptable.

Later in the trip Kroll was simulating a bus stop with children. She signaled the 8-way flashers and stopped. She set the parking brake and then applied the foot brake. Somebody asked why apply both? Her answer was the most concerning yet. She explained "it is twice as safe, like wearing two condoms". The complainant later consulted the CDL study guide-and Mr. Dlsa at ECC. The modern air brake system is set up to relieve any pressure from the foot pedal while the parking brake is applied. If the spring pressure of the parking brake was added to the air pressure of the foot brake a condition called compounding could exist. This added pressure could crack the brake shoes, drums and seriously damage other parts. The study guide advises to never apply the foot brake while the parking brake is on. In fact the Motor Carrier Regulations require a vehicle in such condition to

fail inspection and be taken out of service.

Further on the trip Kroll stated to use utility poles to measure the distance before your stops. The poles she stated are exactly 50 feet apart. She did not explain what to use in places void of utility poles.

After returning to bus yard the other trainees were dismissed. Kroll then turned her attention to the complainant and became cross. She insisted that Mr. Nowak was "trained wrong" at District 15 in Palatine. She stated that he failed to pre-trip the air brakes correctly, failed to set the brakes at the stops, left his routes with children on board. Mr. Nowak tried to calm her down. He stated that she was not present when he was trained. That all the school bus operators are governed by the same laws rules and standards as TJA.

From there Kroll met with Kathy Smith. In Mr. Nowak's presence she told Smith of his driving deficiencies, keep in mind that Mr. Nowak was not driving. Kroll told Mr. Nowak that she needed to work with the other trainees and to return the next afternoon. When he did, Smith was there with a form letter stating the position was not being offered. Smith restated the driving complaints Kroll used the day before and added that Mr. Nowak did not use the mirror grid. It is not clear whether Kathy Smith has the authority to fire Mr. Nowak. That decision may need to be made by a governing board.

The complainant, Mr. Nowak is shocked by this outcome. In the fall of 2002 he returned to observe the TJA bus yard and the Crystal Lake way of training. What he found was exactly what he expected. No driver went under

the buses to inspect the slack adjusters. No flashlights were used in the predawn hours to inspect underneath. No driver used the mirror grid. Only two drivers could be heard fanning the air tanks down to check safety devices. The drivers at TJA were no better at their jobs than Mr. Nowak.

Soon after Smith gave out the letter Mr. Nowak contacted Representative Jack Franks to help find out what may be the problem at TJA. Franks office asked TJA to respond. Ron Erdmann called by telephone and repeated word for word what Kroll and Smith had stated earlier. Erdmann is not a witness and information about Mr. Nowak's driving abilities he has is hearsay.

The complainant has been unemployed since July 2002. He has had no success at district 300 Algonquin, 200 Woodstock, 156 Huntley. These districts are close and the managers seem to know each other. District 300 specifically asked why Mr. Nowak was not working at TJA. He knows he made no wrongful act or violated any law, rule or regulation, nothing that would require his termination.

Mr. Nowak knows of no other driver who was fired for the alleged offenses stated by Knoll, Smith and Erdmann. He also does not know of any driver who has received a traffic citation for any such offenses.

As a comparison Brenda Kroll had worked at Palatine and if we are to believe her own words was " trained wrong". Yet she has worked for TJA many

years and has been placed in a position of responsibility and reward. Also in the interview with Rich Hansen it was discovered that the driver involved with the fatal bus train collision was not terminated. She remained in the office until she retired. A pattern of protecting the women drivers seems to be emerging.

Brenda Kroll did not display a high degree of professionalism. She surely is not the final word in transportation safety. Her allegations of Mr. Nowak's poor driving habits are fabrication and not based on fact. Kroll, Smith and Erdmann work together and may be protecting each other. Mr. Nowak came to TJA with a Valid CDL, school bus permit and three current years school bus experience. He has a very good driving record and is qualified to perform this work. Whatever reason the TJA has for terminating Mr. Nowak is not a legitimate business reason.

MEMO

TO: Dr. Don Erdmann

FROM: Kathy Smith

RE: Jerome Nowak – Human Rights Hearing:

DATE: November 17, 2003

Notes: Taken by Kathy Smith
On Thursday November 13, 2003 Dr. Erdmann, Kathy Smith, Brenda Kroll, and Penny Prestley went to the Thompson Center in Chicago for a hearing with Jerome Nowak and hearing officer Victoria Brown.

Nowak was interviewed first by the hearing officer:

- Nowak described his first interview with Mr. Hansen as positive
- Nowak reported that he thought he was in the wrong training class, he possessed a CDL, but was included in a class with brand new drivers
- Nowak was unsettled by the fact that trainer Brenda Kroll got confirmation from an outside source concerning two questions that were asked: front wheel drive buses, and rear re-capped tires. He later remarked that he felt she might think he was "questioning her authority".
- Nowak remarked several times about asking the question "Where are all the men"
- Nowak remarked that he never had an opportunity to talk to "a man".

- Nowak stated that he planned on asking for a different trainer when he returned for the second day of training.
- Nowak was bothered by a remark in the training room about riding a motorcycle "bitch"supposedly stated by Brenda Kroll
- Nowak was unhappy with the ride trainer Brenda Kroll and Penny Prestley took the trainees on. Nowak accused Brenda Kroll of unsafe driving because she simulated a brake check by taking her hands from the wheel and applying the service brake. This test was conducted under 5mph. Nowak also stated that Kroll was incorrect in teaching the trainees to apply both the service brake and the parking break when unloading or loading students. He said he questioned her about the practice and she remarked "it's safer, like wearing two condoms"
- Nowak stated that we fired him because he was a "man" and that we had not fired other women
- Nowak gave two examples of women not being fired. Brenda Kroll and Pat Catencamp.
- Novak stated that since he was dismissed he has been watching TJA drivers from the DOT lot and remarked that they were not doing a proper pre-trip inspection.
- Nowak described a conversation with Brenda Kroll. He stated that Brenda was upset with him for disrupting the class, making fun of rules and regulations. This conversation took place during a break, when the other trainees were not present.

- Nowak stated that he would not have had any trouble, if not for getting Brenda for a trainer
- Nowak stated that after he was dismissed he called TJA several times looking for Director Rich Hansen. He believes that if he could have talked to Mr. Hansen, he would have retained his job. Mr. Hansen would have understood the comments made to trainer Brenda Kroll in the training ie: If the kids stand, I'll just slam the brakes and make

them sit down; if the kids misbehave Mr. Hansen would understand "Bus humor".

- Nowak stated several times that "women" have the majority of the bus driving jobs.
- Nowak stated that he was upset when Kathy Smith terminated him. He stated no appropriate reason was given
- Nowak stated that he did not know he was a probationary employee

Response from Brenda Kroll, Penny Prestley

- Kroll stated that Nowak made several negative remarks regarding women in training
- Kroll stated that Nowak was very disruptive in classroom training - challenging most statements and making inappropriate comments in front of both trainers and the other trainers
- Kroll states that there was a comment about riding "bitch" in the classroom- but pertaining to a shirt worn by someone walking by the window
- Kroll and Prestley stated that Nowak did say that he would not set the parking brake or fan down the brakes as prescribed by Illinois State Law.
- Kroll stated that she did have a conference with Nowak during a break asking him to refrain from the remarks and interruptions he was making during the classroom portion of his training.
- Kroll denied the "condom" remark
- Prestley confirmed Kroll's allegations of Nowak's disruptive behavior during classroom training

Response from Kathy Smith

- Smith confirmed that the action Kroll took "letting go of the wheel, and depressing the service break" was

correct. Not only is it part of the training curriculum, but also on the CDL driving test

- Smith responded to the statement Nowak made about Pat Catencamp (the driver of the bus that was hit by a train in Fox River Grove had not been dismissed because she was found to be not at fault by the NTSB. Ms. Catencamp did not at any time have any charges placed against her. Nowak also made the statement that Brenda Kroll herself had not been discharged and she had begun her career as a school bus driver at Palatine, the same as Nowak. No statement was made.
- Smith stated that Brenda Kroll did come to her for confirmation of buses being front wheel drive.
- Smith confirmed that both trainers (Brenda Kroll & Penny Prestley) did come to her with huge concerns about Nowak.
- Smith stated that she did ask Nowak two questions after his first training session.
  1. Will you fan down the brakes to do a State of Illinois Mandatory brake check each day. Answer – NO. 2. Will you set the parking brake at each stop when loading and unloading students. Answer - No.
- Smith stated that she did dismiss Nowak the following day. Smith stated she gave Nowak a letter confirming this and reasons why.
- Smith stated she called Dr. Ron Erdmann at home to discuss Nowak
- Smith confirmed that Nowak did call TJA for several days after his dismissal, looking for a male supervisor
- Smith stated that on the worksheet given to a prospective employee it states that there is a probationary period of 90 days. Smith stated she was the one that hired Nowak, and did provide the worksheet.

Response for Dr. Ron Erdmann:

- Erdmann provided Victoria Brown with a copy of the TLCL contract and a copy of the TJA handbook